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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,315	08/10/2001	Charles S. Zuker	23540-10616/US	4699
758	7590	02/23/2007		
FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			EXAMINER BRANNOCK, MICHAEL T	
			ART UNIT	PAPER NUMBER
			1649	
			MAIL DATE	DELIVERY MODE
			02/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/927,315

Applicant(s)

ZUKER ET AL.

Examiner

Michael Brannock

Art Unit

1649

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): see attached.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 76.
Claim(s) objected to: _____.
Claim(s) rejected: 49-51, 56-58, 67, 69-72 and 75.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☒ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 1/10/2007
13. ☒ Other: SCORE Results.


JANET L. ANDRES
SUPERVISORY PATENT EXAMINER

Attachment to Advisory Action

Applicant is notified that the amendment presented 1/16/2007 has been entered in full.

Claims 49, 50, 51, 56, 57, 58, 67, 69-72, 75 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication 20030232407 published December 18, 2003 to Zoller et al., as set forth previously.

Applicant argues that Zoller does not appear to include the element “wherein the T1R2 polypeptide has a greater than 90% identity to SEQ ID NO: 7 or 8”. This argument has been fully considered but not deemed persuasive. The rT1R2 disclosed by Zoller is 100%% identical to the instant SEQ ID NO: 7, and thus anticipates the claims. As Applicant points out, a SEQ ID NO for the rT1R2 disclosed by Zoller cannot, for some reason, be found in the printed publication. The SEQ ID NO is 17; attached is a print-out of a search of the instant SEQ ID NO: 7 against the 20030232407 publication. SEQ ID NO: 17 was known in the prior art as GPCR-B4 as disclosed by prior application 60284547, filed 4/19/2001, on page 13. Also, the rT1R3 is disclosed as SEQ ID NO: 14 in the 60284547 application.

Applicant argues that it is unknown if Zoller’s rT1R2 sequence is greater than 90% identical to the elected mouse SEQ ID NO: 8. This argument has been fully considered but not deemed persuasive. Attached is an alignment between Zoller’s SEQ ID NO: 17 and the instant SEQ ID NO: 8 showing them to be 91.9% identical.

Applicant requests that the examiner point-out where priority for Zoller’s claims can be found. As set forth above, priority for the receptors themselves can be found at least in prior application 60284547. More critically however, the concept of T1R2/T1R3 heterodimerization can be found at least on page 7 of prior Application 60300434, filed 6/26/2001.

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The rejection of claims 49, 50, 51, 56, 57, 58, 67, 69-72, 75 and 76 under 35 U.S.C. 103(a) as being obvious over 20030232407 to Zoller et al. in view of U.S. Patent No: 6383778 is withdrawn in view of Applicant's statement that the instant application and U.S. Patent No: 6383778 were commonly owned at the time the invention of the instant application was made. Thus the 6383778 reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brannock, Ph.D., whose telephone number is (571) 272-0869. The examiner can normally be reached on Mondays through Fridays from 10:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres, Ph.D., can be reached at (571) 272-0867. Official papers filed by fax should be directed to **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

MB

February 18, 2007

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